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by Sh. Manoj Mishra Advocate
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R. to D.R. (J)

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IN THE HIGH COURT OF CHHATTISGARH

AT BILASPUR (C.G.)

W.P.(C.) NO. 319/ /2007

PETITIONER : Jagdish Prasad Choubey S/o Parshuram, aged about 66 years R/o Village - Bandiya Khar, Tahsil – Patthalgaon, District- Jashpur (C.G.).

NON-APPLICANT
C

VERSUS

RESPONDENTS :

APPLICANTS
C

1. Daduram S/o Luduram. (Since dead) R
2. Prakash S/o Luduram.
3. Bandhnu S/o Luduram.
4. Sukhuram S/o Luduram.
5. Kusum S/o Luduram.
6. Chhote Mundari S/o Luduram.

   All are by caste Uranv and residents of Village – Bandiyakhar, Tahsil - Patthalgaon, District-Jashpur (C.G.)
7. State of Chhattisgarh, Through :- Collector, District - Jashpur (C.G.).
8. Board of Revenue Chhattisgarh, Bilaspur (C.G.)

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CAVEAT COMMISSIONER
S.N. Kaushik
BILASPUR TAHSIL AREA

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTI - TUTION OF INDIA.

(39)

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (C) No. 3191 of 2007

PETITIONER NON-APPLICANT : Jagdish Prasad Choubey S/o Parshuram, aged about 66 years R/o Village – Bandiya Khar, Tahsil – Patthalgaon, District – Jashpur (C.G.)

VERSUS

RESPONDENTS APPLICANTS :
1. Daduram S/o Luduram. (Since dead)
2. Prakash S/o Luduram
3. Bandhnu S/o Luduram
4. Sukhuram S/o Luduram
5. Kusum S/o Luduram.
6. Chhote Mundari S/o Luduram.
   All are by caste Uranv and residents of Village – Bandiyakhar, Tahsil – Patthalgaon, District – Jashpur (C.G.).
7. State of Chhattisgarh, Through: - Collector, District – Jashpur (C.G.)
8. Board of Revenue Chhattisgarh, Bilaspur (C.G.)

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA.

Single Bench : Hon'ble Justice Shri Satish K. Agnihotri.

Present: Shri Bhupendra Singh, Advocate for the petitioner.
Shri V.V.S.Moorthy, Dy. Advocate General for the State.

ORDER
(Passed on 11th day of June, 2007)

1. The petitioner, by this petition, filed under Article 227 of the Constitution of India, challenges the legality and the validity of the order dated 02.04.2007 (Annexure P/5) passed by the Board of Revenue in Revenue Case No. R-118/A-23/2004-05. The father of the respondents 1 to 6 Luduram, who was notified as aboriginal tribe, made an application through Power of Attorney holder to the Sub Divisional Officer (Revenue) Patthalgaon on 10.02.202 on the ground that the land in dispute bearing khasra no. 150 at village Bandiyakhar was sold to the petitioner, the non-tribal.

(40)

2. The Sub Divisional officer vide order dated 20.06.2002, in exercise of its power under section 170-B of the M.P. Land Revenue Code, 1959, directed restoration of 0.158 hectare of land to the ab-original tribe, the father of respondent No. 1 to 6. The house situated on area 0.016 hectare was retained by the petitioner. The Collector, vide order dated 9.11.2004, allowed the appeal filed by the petitioner on the ground that the sale of the disputed land took place in accordance with the permission granted by the then Collector. The respondent No. 1 to 6 preferred a revision before the Board of Revenue. The Board of Revenue, after having considered all the aspects of the matter, came to the conclusion that the value of the land was Rs. 33,635/- and the petitioner has paid a sum of Rs. 2800/. Thus, the order passed by the Collector was not in accordance with law. The revision was allowed and the same was remitted back to the Collector, Jashpur, to pass a fresh order after affording opportunity of hearing to the parties in accordance with law and also after having examined the sanction order passed by the Collector.

3. Learned counsel appearing for the petitioner challenges the validity of the impugned order on the ground that nothing remains to be decided for the Collector as the land in dispute was purchased by the petitioner and the value of the land on that point of time was only Rs. 2800/-. Even the case of the respondents 1 to 6 was that some land be allotted to them for their livelihood.

4. Be that as it may. On perusal of the impugned order as well as other orders passed by the authorities below, there is no irregularity, jurisdictional error or infirmity found in the impugned order.

5. It is well settled principle of law that under Article 227 of the Constitution of India, this Court has jurisdiction of judicial review of the order passed by the Court below, in the event, there is manifest and apparent error on the face of the proceedings based on the clear ignorance or utter disregard to the provisions of law or there is grave failure of justice or grave injustice has occasioned thereby. Further, this Court should refrain itself from entertaining a petition in its supervisory jurisdiction if there is no perversity, irregularity or illegality in the process of decision, not in the decision itself.

6. Applying the above settled principles of law to the facts of the present case, it does not warrant interference with the decision passed by the Court below.

7. Thus, this petition is dismissed, summarily. No order as to costs.

Sd/-
Satish K.Agnihotri
Judge

Amit